



STATE OF TENNESSEE
RFP # 317.03-181-08
AMENDMENT # 1

May 22, 2008

THE SUBJECT RFP IS HEREBY AMENDED AS FOLLOWS.

A. The following RFP Schedule of Events updates or confirms scheduled RFP dates.

EVENT	TIME	DATE	UPDATED / CONFIRMED
1. State Issues RFP		April 25, 2008	CONFIRMED
2. Disability Accommodation Request Deadline		May 2, 2008	CONFIRMED
3. Pre-proposal Conference	10:00 a.m.	May 6, 2008	CONFIRMED
4. Notice of Intent to Propose Deadline		May 8, 2008	CONFIRMED
5. Written Comments Deadline		May 13, 2008	CONFIRMED
6. State Responds to Written Comments		May 22, 2008	CONFIRMED
7. Proposal Deadline	2:00 p.m.	May 30, 2008	CONFIRMED
8. State Completes Technical Proposal Evaluations		June 10, 2008	CONFIRMED
9. State Opens Cost Proposals & Calculates Scores	9:00 a.m.	June 11, 2008	CONFIRMED
10. State Issues Evaluation Notice & Opens RFP Files for Public Inspection	9:00 a.m.	June 12, 2008	CONFIRMED
11. Contract Signing		June 24, 2008	CONFIRMED
12. Contract Signature Deadline		July 1, 2008	CONFIRMED
14. Contract Start Date		July 2, 2008	CONFIRMED

B. The following State responses to the questions detailed shall amend or clarify this RFP accordingly.

QUESTION/COMMENT	STATE RESPONSE
1. Page 3, Section 1.1.1, paragraph 1 – Statement of Purpose: The State of Tennessee, Department of Finance and Administration, hereinafter referred to as the State , has issued this Request for Proposal	The Contract will be awarded competitively, as described in the RFP, to a single Contractor. The Department of Finance & Administration (F&A) Office for Information Resources (OIR) will manage

<p>(RFP)...</p> <p>Please clarify the intent of STATE. Is this contract a "Sole Source" contract form which any State Agency may engage the Contractor's Services?</p>	<p>the Contract. The services provided by this Contract will be offered to State agencies <u>through</u> OIR. Agencies interested in using the services will contact OIR and may assist in developing the Statements of Work. The Contractor must include OIR in any and all discussions with State agencies regarding services provided under this Contract.</p> <p>All Statements of Work will be initiated and issued by OIR.</p> <p>All Memorandums of Understanding will be approved and signed by OIR</p>
<p>2. Page 3, Section 1.1.1, paragraph 3</p> <p>The State intends to secure a contract for Information Security Assessment Services (ISAS) Consultants to assist in strengthening the State's security posture. Services include vulnerability assessment, penetration tests and source code reviews.</p> <p>[1] We define Vulnerability Assessment as the identification and assessment of a security risk/violation but would not exploit the situation. Is this what the State defines as Vulnerability Assessment? If not, please provide your definition.</p> <p>[2] We define Penetration Test as the identification, assessment and exploitation of a security risk/violation to determine the extent of the threat. Is this what the State defines a Penetration Test? If not please provide your definition.</p> <p>[3] Please clarify the expectation of source code review. Home grown, vendor code, patches, etc.</p>	<p>[1] The State does not accept the vendor's definition. See the amended RFP Attachment 6.1 <i>pro forma</i> Contract Section A.9.a. in the RFP below.</p> <p>[2] The State does not accept the vendor's definition. See the amended RFP Attachment 6.1 <i>pro forma</i> Contract Section A.9.a. in the RFP below.</p> <p>[3] See the amended RFP Attachment 6.1 <i>pro forma</i> Contract Section A.9.c. in the RFP below.</p>
<p>3. GENERAL REQUIREMENTS & CONTRACTING INFORMATION</p> <p>Page 12, Section 4.18</p> <p>...the State may inspect those areas of the Contractor's place of business that are related to the performance of the contract....</p> <p>[1] Many consultants perform their roles and obligations from a Virtual Home Office Environment or a Center of Excellence Environment. Please incorporate language indicating that the State does not expect to inspect the personal residence Virtual Home Office Environment.</p> <p>[2] Please incorporate language to the effect that the Contractor will NOT be obligated to pay any travel costs for the State should they elect to inspect those areas of the Contractor's place of business.</p>	<p>[1] The State will not agree to incorporate language.</p> <p>[2] The State agrees to incorporate language. See the amended RFP Section 4.18 in the RFP below.</p>
<p>4. Page 13, Section 5.2.1.2 - A Proposal Evaluation Team, made up of three or more State employees, will evaluate each Technical Proposal that appears responsive to the RFP.</p>	<p>The State has selected a team of evaluators based on their knowledge and experience. As a group, the evaluators have experience in the design, implementation, and management of technology-</p>

Please outline the Knowledge, Skills and Abilities of the team members who will be assessing the Technical Proposal.	based solutions including the practice and management of information security technologies and/or programs.
<p>5. CONTRACT TERMS</p> <p>Page 16, Section A.7 The Contractor understands and agrees that the State has executed and may execute contracts with other parties for services the same as or similar to those describe herein.</p> <p>[1] Please incorporate language indicating what process the State uses to mitigate any conflicts between Contractors and or State Agencies.</p> <p>[2] Please incorporate language indicating what process the State uses to mitigate "differences of opinion/technique/etc" which may arise between Contractors.</p> <p>[3] If Contractor is awarded this ISAS contract, does it preclude/prevent Contractor from engaging either as the prime or sub-contractor for the same or similar services as described in this section?</p>	<p>[1] The State will not agree to incorporate language. OIR will manage this Contract and facilitate interactions between the Contractor, State agencies, and other Contractors as applicable. The contract(s) held by a particular Contractor will govern the individual actions of that Contractor.</p> <p>[2] See the response to item [1] of this Question.</p> <p>[3] The awarded Contractor may bid on other <u>security assessment</u> related contracts as the prime contractor or subcontractor. However, as stated in RFP Attachment 6.1 <i>pro forma</i> Contract Section A.16., the awarded Contractor may not bid on <u>managed security services</u> related contracts as either the prime contractor or subcontractor.</p> <p>A definition for Managed Security Service Provider has been added to the Contract. See the amended RFP Attachment 6.1 <i>pro forma</i> Contract Section A.16. in the RFP below.</p>
<p>6. Page 16, Section A.10.a. The State will provide the Contractor with a SOW describing the requested services.....</p> <p>What process will the State use, regardless of the agency, to initiate and authorize a Statement of Work?</p>	See the response to Question 1 above.
<p>7. Page 17, Section A.10.e. Memorandum of Understanding</p> <p>What process will the State use, regardless of the agency, to initiate and authorize a Memorandum of Understanding?</p>	See the response to Question 1 above.
<p>8. Page 18, Section A.10.f. The MOU will fix the masimum [sic] amount of money to be paid in compensation on a particular SOW. This amount [sic] cannot be exceeded without a MOU amendment. Such an amendment, if deemed necessary by the State.</p> <p>Please describe the State's Change Management Process. We believe any and all changes to a statement of work require a change request.</p>	See the added RFP Attachment 6.1 <i>pro forma</i> Contract Section A.10.g. in the RFP below.
<p>9. Please clarify the governing order between Master Contract, MOU and SOW in the event there is a conflict in terms.</p>	See the amended RFP Attachment 6.1 <i>pro forma</i> Contract Section E.5. in the RFP below.
<p>10. Page18, Section A.11.a. The State shall be the sole judge of any quality of services provided and the project progress achieved by the Contractor's</p>	RFP Attachment 6.1 <i>pro forma</i> Contract Section A.11.a. refers to the removal and replacement of Contractor personnel (consultants) at the State's

<p>consultants....</p> <p>Please describe the process the State will use to make this determination. We believe each Statement of Work should include the expected deliverable in sufficient detail to quantitatively and qualitatively “judge” the deliverable.</p>	<p>request. Such request may or may not be tied to the deliverables in the associated SOW.</p> <p>The State has added language regarding deliverable acceptance to the Contract. See the added RFP Attachment 6.1 <i>pro forma</i> Contract Section A.9.f. in the RFP below.</p>
<p>11. Page 19, Section A.13. Contractor warrants to the State that it will cooperate with the State in the course of performance of the Contract so that both parties will be in compliance with State of Tennessee’s Enterprise Security Policies requirements and any other state and federal computer security regulations including cooperation and coordination with the State’s Office of Information Resources Security Management Team and other compliance officers required by its regulations. The Enterprise Security Policies can be found on the State’s public website at:...</p> <p>In the case of ethical hacking/penetration testing, the Contractor will be in violation of the policies. We request language be added to the contract. “The State acknowledges that Contractor will be in violation of the Enterprise Security Policies while performing Penetration Testing and Ethical Hacking Exercises.”</p>	<p>See the amended RFP Attachment 6.1 <i>pro forma</i> Contract Section A.13.a. in the RFP below.</p>
<p>12. Page 19, Section A.16 The Contractor shall not have active managed security service provider contract(s) with, or otherwise provide managed security services to, any other State of Tennessee agency during the term of this Contract.</p> <p>[1] Does this preclude the Contractor from recommending a managed service as remediation/solution for an exposure?</p> <p>[2] Does the State foresee the issuance of a RFP for Managed Security Services during the term of this contract?</p>	<p>[1] This Section does not preclude the Contractor from recommending a managed security service in general as a remediation/solution for an exposure. However, the Contractor cannot recommend a particular vendor or itself as the Managed Security Services Provider. If the State decides to seek a managed security services solution, the services would be procured in accordance with the appropriate State processes and the Contractor would <u>not</u> be eligible to participate in the contract as the prime contractor or subcontractor.</p> <p>[2] The State has no active initiative to issue an RFP for managed security services at this time. However, the State cannot guarantee that it will not issue RFP(s) for managed security services during the term of this contract and reserves the right to do so at any time it deems such RFP(s) as necessary.</p>
<p>13. Page 21, Section C.5 – Payment of Invoice</p> <p>Please incorporate State Payment Terms are met [sic] 30 from receipt of a correct invoice.</p>	<p>The State will not agree to the requested revision.</p> <p>However, note that T.C.A. 12-4-701, et seq sets certain statutory requirements on the State regarding prompt payment of the State’s contractors.</p>
<p>14. Page 22, Section D.4 – Termination for Cause</p> <p>Please incorporate the following language to further define Contractor’s performance warranty: “The State acknowledges that the Services provided</p>	<p>The State acknowledges that the Contractor will not be providing a guarantee that the State system is invulnerable to attack at the conclusion of the Contract or at any future time. The RFP did not</p>

<p>by Contractor under this Contract consist of an assessment of the State's vulnerability to attack and do not constitute a guarantee or certification of any kind against future attacks. Contractor warrants that the Services will be performed in a professional and workmanlike manner and that they will be in conformance with the requirements of the SOW. Except as specifically provided in this Agreement, Contractor makes not other warranties, express, implied or statutory, including but not limited to the implied warranties of merchantability and fitness of a particular purpose."</p>	<p>request such guarantee and none is contained in the Contract.</p> <p>Limitations of liability and warranty require special approval under T.C.A. 12-4-119. The State has already granted a limitation of liability in RFP Attachment 6.1 <i>pro forma</i> Contract Section E.11. and will not provide a further limitation.</p>
<p>15. Page 24, Section D.14 – State Liability</p> <p>Please incorporate the following language to clarify that the Contractor is not responsible for securing authorization to access the systems and information necessary to meet Objectives 1 & 2 defined at Section A: The State represents that it has obtained all required authorizations and approvals needed in order for Consultant to access the systems networks, equipment, software and information necessary for Consultant/Contractor to perform the tasks associated with Objectives 1 & 2.</p> <p>The State agrees to hold Consultant/Contractor harmless for any damage or liability resulting from third party claims that Consultant/Contractor did not have the authorization to obtain such access.</p>	<p>OIR is granted authority for the State network and security as staff to the Information Systems Council. (Refer to T.C.A. 4-3-5502 and T.C.A. 4-3-5503.) OIR will obtain additional authorizations and/or approvals for the Contractor to perform the work requested in the Contract if such authorizations and/or approvals are deemed necessary by the State.</p> <p>Limitations of liability and warranty require special approval under T.C.A. 12-4-119. The State will not provide a further limitation beyond what is already granted in RFP Attachment 6.1 <i>pro forma</i> Contract Section E.11.</p>
<p>16. Page 26, Section E.7.a. ..Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials reasonably associated with any Work Product provided under the Contract.</p> <p>[1] We request that the scope of the State's license to "Contractor Materials" be restricted to those "Contractor Materials" embedded in any Deliverables provided to the State, instead of the broader, undefined description: "reasonably associated with."</p> <p>[2] We request the following edit to the last portion of the paragraph: "EXCEPT the Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials embedded in any Work product provided under the Contract.:</p>	<p>See the amended RFP Attachment 6.1 <i>pro forma</i> Contract Section E.7. in the RFP below.</p>
<p>17. Page 26, Section E.7.b – The Contractor shall furnish such information and data as the State may request, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor</p>	<p>See the amended RFP Attachment 6.1 <i>pro forma</i> Contract Section E.7. in the RFP below.</p>

<p>Materials reasonable associated with any Work Product.</p> <p>For clarification purposes, we request that the information, data and Contractor materials to be provided to the State, in addition to the work product, be identified in the SOW. We request the following edit: “in accordance with the Contract and applicable State Law, the Contractor shall furnish such information and data as the State may request, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor Materials embedded in any Work Product, provide that nay of the foregoing are identified as a Deliverable in the applicable SOW.”</p>	
<p>18. Page 27, Section E.11 Limited Liability – Due to the nature of the penetration testing and other attack techniques which the State has specifically requested be utilized, we requests [sic] that Contractor liabilities for damages to persons or property be limited to Contractor’s negligence in the performance of the services. We request the following language be added: “Except for Contractor’s negligent act or omissions or intentional wrongdoing in the performance of the Penetration Testing under this Contract, State agrees to hold Contractor harmless for any liability for damages to persons or property arising out of Contractor’s performance of the Penetration Testing specifically requested by the State under this Contract.”</p>	<p>Limitations of liability and warranty require special approval under T.C.A. 12-4-119. The State will not provide a further limitation beyond what is already granted in RFP Attachment 6.1 <i>pro forma</i> Contract Section E.11.</p>
<p>19. TECHNICAL PROPOSAL – SECTION C</p> <p>Page 49, Section C.1 – Provide a narrative that illustrates the Proposer’s understanding of the State’s requirements and the <i>project schedule</i>.</p> <p>By Project Schedule, do you mean the schedule for the RFP? If not, please provide a project schedule.</p>	<p>Project schedule has been removed from the required response in Attachment 6.3, Sections C.1. It has also been removed from the required response in Attachment 6.3, Sections C.2 and C.3.</p> <p>See the amended RFP Attachment 6.3, Sections C.1, C.2, and C.3 in the RFP below.</p>

- C. Delete RFP 317.03-181-08 in its entirety and replace the document with RFP 317.03-181-08, Release 2 (attached hereto).

NOTE: ALL revisions from the previously released RFP document will be emphasized in the attached document as follows. (1) The sentence or paragraph involving any revision in which text is replaced with new text or new text is simply added will be highlighted in yellow. (2) The location of any revision in which text is deleted but not replaced will be denoted by the words, **“TEXT DELETED”** in bold red caps inserted in the place of the text that is deleted but not replaced.



**STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION**

**REQUEST FOR PROPOSALS
FOR
INFORMATION SECURITY ASSESSMENT SERVICES (ISAS)
RFP NUMBER: 317.03-181-08
May 22, 2008
Release Number 2**

CONTENTS

SECTION

- 1 INTRODUCTION**
- 2 RFP SCHEDULE OF EVENTS**
- 3 PROPOSAL REQUIREMENTS**
- 4 GENERAL REQUIREMENTS & CONTRACTING INFORMATION**
- 5 PROPOSAL EVALUATION & CONTRACT AWARD**

RFP ATTACHMENTS:

- 6.1 *Pro Forma* Contract**
 - Contract Attachment A- Attestation Re Personnel Used in Contract Performance**
 - Contract Attachment B: Memorandum of Understanding (MOU)**
 - Contract Attachment C: HIPPA Business Associate Agreement**
- 6.2 Proposal Transmittal/Statement Of Certifications & Assurances**
- 6.3 Technical Proposal & Evaluation Guide**
- 6.4 Cost Proposal & Scoring Guide**
- 6.5 Proposal Score Summary Matrix**

6.6 Reference Questionnaire

1 INTRODUCTION

1.1 Statement of Purpose

The State of Tennessee, Department of Finance and Administration, hereinafter referred to as the State, has issued this Request for Proposals (RFP) to define the State's minimum service requirements; solicit proposals; detail proposal requirements; and, outline the State's process for evaluating proposals and selecting the contractor.

Through this RFP, the State seeks to buy the best services at the most favorable, competitive prices and to give ALL qualified businesses, including those that are owned by minorities, women, persons with a disability, and small business enterprises, opportunity to do business with the state as contractors and sub-contractors.

The State intends to secure a contract for Information Security Assessment Services (ISAS) Consultants to assist in strengthening the State's security posture. Services include vulnerability assessments, penetration tests, and source code reviews. Vulnerability assessments and penetration testing services will be used to identify and validate configuration and/or technical flaws within a given system or network (i.e. firewalls, routers, servers, operating systems, applications, databases, load-balancers, etc.). Source code reviews will be conducted to identify programming errors that may lead to security issues (i.e. format string mistakes, buffer overflows, memory leaks, etc.).

A vendor that currently has active **Managed Security Service Provider** contract(s) with any State of Tennessee agency **cannot** bid on this RFP. In addition, during the term of the Contract awarded from this RFP, the winning vendor **cannot** bid on any procurement for managed security services released by State of Tennessee agencies or otherwise provide managed security services to State of Tennessee agencies.

The vendor shall provide the services required by this RFP within the context of the technical environment described by the *Tennessee Information Resources Architecture* (sometimes referred to as the technical architecture). The vendor may request a copy of the Architecture by submitting a written request to the RFP coordinator listed in RFP Section 1.5.1.1.

1.2 Scope of Service, Contract Period, and Required Terms and Conditions

The RFP Attachment 6.1, *Pro Forma* Contract details the State's required:

- Scope of Services and Deliverables in Section A;
- Contract Period in Section B;
- Payment Terms in Section C;
- Standard Terms and Conditions in Section D; and,
- Special Terms and Conditions in Section E.

The *pro forma* contract substantially represents the contract document that the proposer selected by the State MUST agree to and sign.

1.3 Nondiscrimination

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the State's contracted programs or activities on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the State or in the employment practices of the State's contractors. Accordingly, all vendors entering into contracts with the State shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

The State has designated the following to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and applicable federal regulations.

Emily M. Passino, Ph. D
Senior Management Consultant
F&A / Office of Consulting Services

William R. Snodgrass Tennessee Tower, 12th Floor
 Nashville, TN 37243-1700
 615-741-6030

1.4 Assistance to Proposers With a Disability

A Proposer with a disability may receive accommodation regarding the means of communicating this RFP and participating in this RFP process. A Proposer with a disability should contact the RFP Coordinator to request reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFP Section 2, Schedule of Events.

1.5 RFP Communications

1.5.1 Unauthorized contact regarding this RFP with employees or officials of the State of Tennessee other than the RFP Coordinator detailed below may result in disqualification from this procurement process.

1.5.1.1 Interested Parties must direct all communications regarding this RFP to the following RFP Coordinator, who is the state of Tennessee's only official point of contact for this RFP.

Dorothy Vaughn
 Department of Finance and Administration
 William R. Snodgrass Tennessee Tower, 17th Fl.
 312 8th Avenue North
 Nashville, TN 37243
 Telephone Number: 615-741-7361
 Fax Number: 615-741-6164
Dorothy.vaughn@state.tn.us

1.5.1.2 Notwithstanding the foregoing, Interested Parties may contact the staff of the Governor's Office of Diversity Business Enterprise for general, public information regarding this RFP, assistance available from the Governor's Office of Diversity Business Enterprise, or potential future state procurements.

1.5.2 The State has assigned the following RFP identification number that must be referenced in all communications regarding the RFP:

RFP-317.03-181-08

1.5.3 Any oral communications shall be considered unofficial and non-binding with regard to this RFP.

1.5.4 Each Proposer shall assume the risk of the method of dispatching any communication or proposal to the State. The State assumes no responsibility for delays or delivery failures resulting from the method of dispatch. Actual or electronic "postmarking" of a communication or proposal to the State by a deadline date shall not substitute for actual receipt of a communication or proposal by the State.

1.5.5 The RFP Coordinator must receive all written comments, including questions and requests for clarification, no later than the Written Comments Deadline detailed in the RFP Section 2, Schedule of Events.

1.5.6 The State reserves the right to determine, at its sole discretion, the appropriate and adequate responses to written comments, questions, and requests for clarification. The State's official responses and other official communications pursuant to this RFP shall constitute an amendment of this RFP.

1.5.7 The State will convey all official responses and communications pursuant to this RFP to the potential proposers from whom the State has received a Notice of Intent to Propose.

1.5.8 Only the State's official, written responses and communications shall be considered binding with regard to this RFP.

1.5.9 The State reserves the right to determine, at its sole discretion, the method of conveying official responses and communications pursuant to this RFP (e.g., written, facsimile, electronic mail, or Internet posting). Most important documents will be posted on the following website:

<http://state.tn.us/finance/oir/pcm/rfps.html>

- 1.5.10 Any data or factual information provided by the State, in this RFP or an official response or communication, shall be deemed for informational purposes only, and if a Proposer relies on such data or factual information, the Proposer should either: (1) independently verify the information; or, (2) obtain the State's written consent to rely thereon.

1.6 Notice of Intent to Propose

Each potential proposer should submit a Notice of Intent to Propose to the RFP Coordinator by the deadline detailed in the RFP Section 2, Schedule of Events. The notice should include:

- Proposer's name
- name and title of a contact person
- address, telephone number, and facsimile number of the contact person
- email address

NOTICE: A Notice of Intent to Propose creates no obligation and is not a prerequisite for making a proposal, however, it is necessary to ensure receipt of RFP amendments and other communications regarding the RFP (refer to RFP Sections 1.5, *et seq.*, above).

1.7 Proposal Deadline

Proposals must be submitted no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events. A proposal must respond to the written RFP and any RFP exhibits, attachments, or amendments. A late proposal shall not be accepted, and a Proposer's failure to submit a proposal before the deadline shall cause the proposal to be disqualified.

1.8 Pre-Proposal Conference

A Pre-Proposal Conference will be held at the time and date detailed in the RFP Section 2, Schedule of Events. The purpose of the conference is to discuss the RFP scope of services. While questions will be entertained, the response to any question at the Pre-Proposal Conference shall be considered tentative and non-binding with regard to this RFP. Questions concerning the RFP should be submitted in writing prior to the Written Comments Deadline date detailed in the RFP Section 2, Schedule of Events. To ensure accurate, consistent responses to all known potential Proposers, the official response to questions will be issued by the State as described in RFP Sections 1.5, *et seq.*, above and on the date detailed in the RFP Section 2, Schedule of Events.

Pre-Proposal Conference attendance is not mandatory, and each potential Proposer may be limited to a maximum number of attendees depending upon overall attendance and space limitations. The conference will be held at:

The Robertson Room
William R. Snodgrass Tennessee Tower, 3rd Fl.
312 8th Avenue North
Nashville, TN 37243

2 RFP SCHEDULE OF EVENTS

The following Schedule of Events represents the State's best estimate of the schedule that will be followed. Unless otherwise specified, the time of day for the following events will be between 8:00 a.m. and 4:30 p.m., Central Time.

RFP SCHEDULE OF EVENTS		
NOTICE: The State reserves the right, at its sole discretion, to adjust this schedule as it deems necessary. The State will communicate any adjustment to the Schedule of Events to the potential proposers from whom the State has received a Notice of Intent to Propose.		
EVENT	TIME	DATE (<u>all</u> dates are state business days)
1. State Issues RFP		April 25, 2008
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12. Contract Signature Deadline		July 1, 2008
13. Contract Start Date		July 2, 2008

3 PROPOSAL REQUIREMENTS

Each Proposer must submit a proposal in response to this RFP with the most favorable terms that the Proposer can offer. There will be no best and final offer procedure.

3.1 Proposal Form and Delivery

3.1.1 Each response to this RFP must consist of a Technical Proposal and a Cost Proposal (as described below).

3.1.2 Each Proposer must submit one (1) original and six (6) copies, and one (1) CD containing a copy in ".pdf" format of the Technical Proposal to the State in a sealed package that is clearly marked:

"Technical Proposal in Response to RFP- 317.03-181-08 -- Do Not Open"

NOTE: One hard copy must be marked "Original." In the event of any differences between printed and electronic versions, or problems with the CD, the contents of the hard copy marked "Original" shall prevail. Do not include any costs in either form of the Technical Proposal.

3.1.3 Each Proposer must submit one (1) Cost Proposal to the State in a separate, sealed package that is clearly marked:

"Cost Proposal in Response to RFP- 317.03-181-08 -- Do Not Open"

3.1.4 If a Proposer encloses the separately sealed proposals (as detailed above (in a larger package for mailing, the Proposer must clearly mark the outermost package:

"Contains Separately Sealed Technical and Cost Proposals for RFP # 317.03-181-08"

3.1.5 The State must receive all proposals in response to this RFP, at the following address, no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events.

Department of Finance and Administration
Office for Information Resources
ATTN: Dorothy Vaughn
William R. Snodgrass Tennessee Tower
17th Floor, 312 8th Ave. North
Nashville, TN 37243

3.1.6 A Proposer may not deliver a proposal orally or by any means of electronic transmission.

3.2 Technical Proposal

3.2.1 The RFP Attachment 6.3, Technical Proposal and Evaluation Guide details specific requirements for making a Technical Proposal in response to this RFP. This guide includes mandatory and general requirements as well as technical queries requiring a written response.

NOTICE: No pricing information shall be included in the Technical Proposal. Inclusion of Cost Proposal amounts in the Technical Proposal shall make the proposal non-responsive and the State shall reject it.

3.2.2 Each Proposer must use the Technical Proposal and Evaluation Guide to organize, reference, and draft the Technical Proposal. Each Proposer should duplicate the Technical Proposal and Evaluation Guide and use it as a table of contents covering the Technical Proposal (adding proposal page numbers as appropriate).

3.2.3 Each proposal should be economically prepared, with emphasis on completeness and clarity of content. A proposal, as well as any reference material presented, must be written in English and must be written on standard 8 1/2" x 11" paper (although foldouts containing charts, spreadsheets, and oversize exhibits are permissible). All proposal pages must be numbered.

3.2.4 All information included in a Technical Proposal should be relevant to a specific requirement detailed in the Technical Proposal and Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will in no way contribute to the evaluation process.

3.2.5 The State may determine a proposal to be non-responsive and reject it if the Proposer fails to organize and properly reference the Technical Proposal as required by this RFP and the Technical Proposal and Evaluation Guide.

- 3.2.6 The State may determine a proposal to be non-responsive and reject it if the Technical Proposal document fails to appropriately address/meet all of the requirements detailed in the Technical Proposal and Evaluation Guide.

3.3 Cost Proposal

- 3.3.1 The Cost Proposal must be submitted to the State in a sealed package separate from the Technical proposal.
- 3.3.2 Each Cost Proposal must be recorded on an exact duplicate of the RFP Attachment 6.4, Cost Proposal and Evaluation Guide.
- 3.3.3 Each Proposer shall ONLY record the proposed cost exactly as required by the Cost Proposal and Evaluation Guide and shall NOT record any other rates, amounts, or information.
- 3.3.4 The proposed cost shall incorporate all costs for services under the contract for the total contract period.
- 3.3.5. The Proposer must sign and date the Cost Proposal.
- 3.3.6 If a Proposer fails to submit a Cost Proposal as required, the State shall determine the proposal to be non-responsive and reject it.

4 GENERAL REQUIREMENTS & CONTRACTING INFORMATION

4.1 Proposer Required Review and Waiver of Objections

Each Proposer must carefully review this RFP and all attachments, including but not limited to the *pro forma* contract, for comments, questions, defects, objections, or any other matter requiring clarification or correction (collectively called “comments”). Comments concerning RFP objections must be made in writing and received by the State no later than the Written Comments Deadline detailed in the RFP Section 2, Schedule of Events. This will allow issuance of any necessary amendments and help prevent the opening of defective proposals upon which contract award could not be made.

Protests based on any objection shall be considered waived and invalid if these comments/objections have not been brought to the attention of the State, in writing, by the Written Comments Deadline.

4.2 RFP Amendment and Cancellation

The State reserves the unilateral right to amend this RFP in writing at any time. If an RFP amendment is issued, the State will convey such amendment to the potential proposers who submitted a Notice of Intent to Propose. Each proposal must respond to the final written RFP and any exhibits, attachments, and amendments.

The State of Tennessee reserves the right, at its sole discretion, to cancel and reissue this RFP or to cancel this RFP in its entirety in accordance with applicable laws and regulations.

4.3 Proposal Prohibitions and Right of Rejection

4.3.1 The State of Tennessee reserves the right, at its sole discretion, to reject any and all proposals in accordance with applicable laws and regulations.

4.3.2 Each proposal must comply with all of the terms of this RFP and all applicable State laws and regulations. The State may reject any proposal that does not comply with all of the terms, conditions, and performance requirements of this RFP. The State may consider any proposal that does not meet the requirements of this RFP to be non-responsive, and the State may reject such a proposal.

4.3.3 A proposal of alternate services (*i.e.*, a proposal that offers services different from those requested by this RFP) shall be considered non-responsive and rejected.

4.3.4 A Proposer may not restrict the rights of the State or otherwise qualify a proposal. The State may determine such a proposal to be a non-responsive counteroffer, and the proposal may be rejected.

4.3.5 A Proposer may not submit the Proposer's own contract terms and conditions in a response to this RFP. If a proposal contains such terms and conditions, the State may determine, at its sole discretion, the proposal to be a non-responsive counteroffer, and the proposal may be rejected.

4.3.6 A Proposer shall not submit more than one proposal. Submitting more than one proposal shall result in the disqualification of the Proposer.

4.3.7 A Proposer shall not submit multiple proposals in different forms. This prohibited action shall be defined as a Proposer submitting one proposal as a prime contractor and permitting a second Proposer to submit another proposal with the first Proposer offered as a subcontractor. This restriction does not prohibit different Proposers from offering the same subcontractor as a part of their proposals, provided that the subcontractor does not also submit a proposal as a prime contractor. Submitting multiple proposals in different forms may result in the disqualification of all Proposers knowingly involved.

4.3.8 The State shall reject a proposal if the Cost Proposal was not arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to such prices with any other Proposer. Regardless of the time of detection, the State shall consider any of the foregoing prohibited actions to be grounds for proposal rejection or contract termination.

4.3.9 The State shall not contract with or consider a proposal from:

4.3.9.1 an individual who is, or within the past six months has been, an employee or official of the State of Tennessee;

4.3.9.2 a company, corporation, or any other contracting entity in which an ownership of two percent (2%) or more is held by an individual who is, or within the past six months has been, an employee or official of the State of Tennessee (this shall not apply either to financial interests that have been placed into a

“blind trust” arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests or to the ownership of publicly traded stocks or bonds where such ownership constitutes less than 2% of the total outstanding amount of the stocks or bonds of the issuing entity);

- 4.3.9.3 a company, corporation, or any other contracting entity which employs an individual who is, or within the past six months has been, an employee or official of the State of Tennessee in a position that would allow the direct or indirect use or disclosure of information, which was obtained through or in connection with his or her employment and not made available to the general public, for the purpose of furthering the private interest or personal profit of any person; or,
- 4.3.9.4 any individual, company, or other entity involved in assisting the State in the development, formulation, or drafting of this RFP or its scope of services shall be considered to have been given information that would afford an unfair advantage over other Proposers, and such individual, company, or other entity may not submit a proposal in response to this RFP.
- 4.3.9.5 For the purposes of applying the requirements of RFP subsection 4.3.9, *et. seq.*, an individual shall be deemed an employee or official of the State of Tennessee until such time as all compensation for salary, termination pay, and annual leave has been paid.
- 4.3.10 The State reserves the right, at its sole discretion, to waive a proposal’s variances from full compliance with this RFP. If the State waives minor variances in a proposal, such waiver shall not modify the RFP requirements or excuse the Proposer from full compliance with such. Notwithstanding any minor variance, the State may hold any Proposer to strict compliance with this RFP.

4.4 Incorrect Proposal Information

If the State determines that a Proposer has provided, for consideration in this RFP process or subsequent contract negotiations, incorrect information that the Proposer knew or should have known was materially incorrect, that proposal shall be determined non-responsive and shall be rejected.

4.5 Proposal of Additional Services

If a proposal offers services in addition to those required by and described in this RFP, the additional services may be added to the contract before contract signing at the sole discretion of the State. Notwithstanding the foregoing, a Proposer shall not propose any additional cost amount(s) or rate(s) for additional services.

NOTICE: The Proposer’s Cost Proposal shall record only the proposed cost as required in this RFP and shall not record any other rates, amounts, or information. If a Proposer fails to submit a Cost Proposal as required, the State shall determine the proposal to be non-responsive and shall reject the proposal.

4.6 Assignment and Subcontracting

- 4.6.1 The Proposer awarded a contract pursuant to this RFP may not subcontract, transfer, or assign any portion of the contract without the State’s prior, written approval.
- 4.6.2 A subcontractor may only be substituted for a proposed subcontractor at the discretion of the State and with the State’s prior, written approval.
- 4.6.3 At its sole discretion, the State reserves the right to refuse approval of any subcontract, transfer, or assignment.
- 4.6.4 Notwithstanding State approval of each subcontractor, the Proposer , if awarded a contract pursuant to this RFP, shall be the prime contractor and shall be responsible for all work performed.

4.7 Right to Refuse Personnel

At its sole discretion, the State reserves the right to refuse any personnel, of the prime contractor or a subcontractor, for use in the performance of a contract pursuant to this RFP.

4.8 Insurance

The State may require the apparent successful Proposer to provide proof of adequate worker’s compensation and public liability insurance coverage before entering into a contract. Additionally, the State may require, at its sole discretion, the apparent successful Proposer to provide proof of adequate professional malpractice liability or other forms of insurance. Failure to provide evidence of

such insurance coverage is a material breach and grounds for termination of the contract negotiations. Any insurance required by the State shall be in form and substance acceptable to the State.

4.9 Licensure

Before a contract pursuant to this RFP is signed, the apparent successful Proposer must hold all necessary, applicable business and professional licenses. The State may require any or all Proposers to submit evidence of proper licensure.

4.10 Service Location and Work Space

The service pursuant to this RFP is to be performed, completed, managed, and delivered as detailed in the RFP Attachment 6.1, *Pro Forma* Contract. Work space on the State's premises may be available for contractor use in accordance with the *pro forma* contract or at the State's discretion.

4.11 Proposal Withdrawal

A Proposer may withdraw a submitted proposal at any time up to the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events. To do so, a proposer must submit a written request, signed by a Proposer's authorized representative to withdraw a proposal. After withdrawing a previously submitted proposal, a Proposer may submit another proposal at any time up to the Proposal Deadline.

4.12 Proposal Errors and Amendments

Each Proposer is liable for all proposal errors or omissions. A Proposer will not be allowed to alter or amend proposal documents after the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the State.

4.13 Proposal Preparation Costs

The State will not pay any costs associated with the preparation, submittal, or presentation of any proposal.

4.14 Disclosure of Proposal Contents

Each proposal and all materials submitted to the State in response to this RFP shall become the property of the State of Tennessee. Selection or rejection of a proposal does not affect this right. All proposal information, including detailed price and cost information, shall be held in confidence during the evaluation process. Notwithstanding, a list of actual proposers submitting timely proposals may be available to the public, upon request, directly after technical proposals are opened by the state.

Upon the completion of the evaluation of proposals, indicated by public release of an Evaluation Notice, the proposals and associated materials shall be open for review by the public in accordance with *Tennessee Code Annotated*, Section 10-7-504(a)(7). By submitting a proposal, the Proposer acknowledges and accepts that the full proposal contents and associated documents shall become open to public inspection.

4.15 Contractor Registration

While registration with the state is not required to make a proposal, a service provider must be registered to do business with the state of Tennessee before approval of an awarded contract. To meet this prerequisite, an unregistered service provider must simply register as required prior to contract approval. Fast and easy access to *Online Contractor Registration* is available at the following Internet URL:

www.state.tn.us/finance/rds/ocr/register.html

(For more information about registration, please contact the Department of General Services at (615) 741-1035 or vendor.registration@state.tn.us.)

4.16 Contract Approval

The RFP and the contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Proposer with the apparent best-evaluated proposal or any other Proposer. Contract award and State obligations pursuant thereto shall commence only after the contract is signed by the Contractor and the head of the procuring state agency and after the contract is approved and signed by all other State officials as required by State laws and regulations.

4.17 Contract Payments

All contract payments shall be made in accordance with the contract's Payment Terms and Conditions provisions (refer to RFP Attachment 6.1, *Pro Forma Contract*, Section C). No payment shall be made until the contract is approved as required by State laws and regulations. Under no conditions shall the State be liable for payment of any type associated with the contract or responsible for any work done by the Contractor, even work done in good faith and even if the Contractor is orally directed to proceed with the delivery of services, if it occurs before contract approval by State officials as required by applicable statutes and rules of the State of Tennessee or before the contract start date or after the contract end date specified by the contract.

4.18 Contractor Performance

The Contractor shall be responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and acceptance by the State. The State may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. At reasonable times, the State may inspect those areas of the Contractor's place of business that are related to the performance of the contract. If the State requires such an inspection, the Contractor shall provide reasonable access and assistance. **The Contractor shall not be responsible for the State's travel costs related to inspections.**

4.19 Contract Amendment

During the course of this contract, the State may request the Contractor to perform additional work for which the Contractor would be compensated. That work shall be within the general scope of this RFP. In such instances, the State shall provide the Contractor a written description of the additional work, and the Contractor shall submit a time schedule for accomplishing the additional work and a price for the additional work based on the rates included in the Contractor's proposal to this RFP. If the State and the Contractor reach an agreement regarding the work and associated compensation, such agreement shall be effected by means of a contract amendment. Any such amendment requiring additional work must be mutually agreed upon by the parties and signed by the Contractor and the head of the procuring state agency and must be approved by other State officials as required by State laws and regulations. The Contractor shall not commence additional work until the State has issued a written contract amendment and secured all required approvals.

4.20 Severability

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision shall not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of the State and Proposers shall be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

5 PROPOSAL EVALUATION & CONTRACT AWARD

5.1 Evaluation Categories and Maximum Points

The State will consider qualifications and experience, technical approach, technical requirements, and cost in the evaluation of proposals. The maximum points that shall be awarded for each of these categories are detailed below.

CATEGORY	MAXIMUM POINTS POSSIBLE
Qualifications and Experience	30
Technical Approach	40
Cost Proposal	30

5.2 Evaluation Process

The proposal evaluation process is designed to award the contract not necessarily to the Proposer of least cost, but rather to the Proposer with the best combination of attributes based upon the evaluation criteria.

- 5.2.1 The RFP Coordinator will use the RFP Attachment 6.3, Technical Proposal and Evaluation Guide to manage the Technical Proposal Evaluation and maintain evaluation records.
- 5.2.1.1 The RFP Coordinator will review each Technical Proposal to determine compliance with mandatory requirements (refer to RFP Attachment 6.3, Technical Proposal and Evaluation Guide, Technical Proposal Section A). If the RFP Coordinator determines that a proposal may have failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the proposal and document its determination of whether: (1) the proposal meets requirements for further evaluation; (2) the State will request clarifications or corrections; or, (3) the State will determine the proposal non-responsive to the RFP and reject it.
- 5.2.1.2 A Proposal Evaluation Team, made up of three or more State employees, will evaluate each Technical Proposal that appears responsive to the RFP.
- 5.2.1.3 Each Proposal Evaluation Team member will independently, evaluate each proposal against the evaluation criteria in this RFP, rather than against other proposals, and will score each in accordance with the RFP Attachment 6.3, Technical Proposal and Evaluation Guide.
- 5.2.1.4 The State reserves the right, at its sole discretion, to request Proposer clarification of a Technical Proposal or to conduct clarification discussions with any or all Proposers. Any such clarification or discussion shall be limited to specific sections of the proposal identified by the State. The subject Proposer shall put any resulting clarification in writing as may be required by the State.
- 5.2.2 After Technical Proposal evaluations are completed, the RFP Coordinator will open the Cost Proposals and use the RFP Attachment 6.4, Cost Proposal and Scoring Guide to calculate and document the Cost Proposal scores.
- 5.2.3 For each responsive proposal, the RFP Coordinator will add the average Technical Proposal score to the Cost Proposal score (refer to RFP Attachment 6.5, Proposal Score Summary Matrix).

5.3 Contract Award Process

- 5.3.1 The RFP Coordinator will forward the results of the proposal evaluation process to the head of the procuring agency who will consider the proposal evaluation process results and all pertinent information available to make a determination about the contract award. The State reserves the right to make an award without further discussion of any proposal.

Notwithstanding the foregoing, to effect a contract award to a proposer other than the one receiving the highest evaluation score, the head of the procuring agency must provide written justification for such an award and obtain the written approval of the Commissioner of Finance and Administration and the Comptroller of the Treasury.

- 5.3.2 After the agency head's determination, the State will issue an Evaluation Notice to identify the apparent best-evaluated proposal on the Evaluation Notice date detailed in the RFP Section 2, Schedule of Events.

NOTICE: The Evaluation Notice shall not create rights, interests, or claims of entitlement in either the Proposer with apparent best-evaluated proposal or any other Proposer.

- 5.3.3 The State will also make the RFP files available for public inspection on the Evaluation Notice date detailed in the RFP Section 2, Schedule of Events.

- 5.3.4 The Proposer with the apparent best-evaluated proposal must agree to and sign a contract with the State which shall be substantially the same as the RFP Attachment 6.1, *Pro Forma* Contract.

However, the State reserves the right, at its sole discretion, to add terms and conditions or to revise *pro forma* contract requirements in the State's best interests subsequent to this RFP process. No such terms and conditions or revision of contract requirements shall materially affect the basis of proposal evaluations or negatively impact the competitive nature of the RFP process.

- 5.3.5 The Proposer with the apparent best-evaluated proposal must sign and return the contract drawn by the State pursuant to this RFP no later than the Contract Signature Deadline date detailed in the RFP Section 2, Schedule of Events. If the Proposer fails to provide the signed contract by the deadline, the State may determine that the Proposer is non-responsive to the terms of this RFP and reject the proposal.
- 5.3.6 If the State determines that the apparent best-evaluated proposal is non-responsive and rejects the proposal after opening the Cost Proposals, the RFP Coordinator will re-calculate scores for each responsive Cost Proposal to determine the new, best –evaluated proposal.

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION
AND
CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, hereinafter referred to as the "State" and **CONTRACTOR LEGAL ENTITY NAME**, hereinafter referred to as the "Contractor," is for the provision of Information Security Assessment Services as further defined in the "SCOPE OF SERVICES."

The Contractor is **A/AN INDIVIDUAL, FOR-PROFIT CORPORATION, NON-PROFIT CORPORATION, SPECIAL PURPOSE CORPORATION OR ASSOCIATION, PARTNERSHIP, JOINT VENTURE, OR LIMITED LIABILITY COMPANY.**

Contractor Federal Employer Identification or Social Security Number: **ID NUMBER**

Contractor Place of Incorporation or Organization: **LOCATION**

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.

A.2. Statement of Work Procedures/Provisions

The purpose of this Contract is to provide a source for Information Security Assessment Services (ISAS). This Contract does not obligate the State to use the Contractor's services except as detailed in the Statement of Work Procedures/Process detailed below.

A.2.a Under the terms of this Contract and at the State's request, the Contractor will provide information security assessment services to the State using the consultants listed in Contract Section C.3, below (collectively, "consultants").

A.3 The specific roles and responsibilities of Contractor consultants shall be as defined in the Contract and future Statements of Work (SOWs).

A.4. The SOW will specify the work location(s) of Contractor consultants. Contractor consultants shall be based on-site and perform their work at State-operated, maintained, and managed facilities in Nashville, Tennessee, or Contractor consultants shall be based off-site and perform their work at a Contractor location. The State reserves the right to request on-site or off-site work, whichever is deemed to be in the best interest of the project.

A.5. Standard State work schedules are based on a Monday through Friday thirty seven and one-half (37.5) hour workweek, typically comprised of five (5) seven and one-half (7.5) hour workdays, between the hours of 8:00 a.m. CST and 4:30 p.m. CST, excluding State holidays. Unless specific times are designated in the SOW, work performed under this Contract may occur during the standard State work schedule, on weekends, on State holidays, and/or at off-hours Monday through Friday. Contractor consultants will be compensated at the payment rates in Contract Section C.3., regardless of the day, date, or time the tasks are performed or the total number of hours worked during a workweek.

A.6. Contractor consultants must provide their own personal computing devices (desktop, laptop, etc.) and licenses for software installed on the devices. Commensurate with the needs of a given project, the State will provide Contractor consultants with office and meeting space, access to telephones, printers, and copiers, and connections to the Internet and/or State network. The

State shall be the sole determinant with regard to facilities, supplies, access, and connections required for any given project.

A.7. The Contractor understands and agrees that the State has executed and may execute contracts with other parties for services the same as or similar to those described herein.

A.8. The purpose of this Contract is to establish a source of supply for information security assessment consultants. However, due to the dynamic nature of projects within State government, the State cannot predict the numbers of Contractor consultants that will be required under this Contract. Therefore, the State makes no guarantees, either stated or implied, about the demand for resources provided through this procurement. The State is not obligated to use any of the Contractor's consultants. Throughout the term of the Contract, the State retains full control and flexibility with regard to the types, quantities, and timing of Contractor consultant usage.

A.9. Contractor Objectives and Deliverables

A.9.a. Objective 1: Provide Security Vulnerability Assessment and Penetration Testing Services

The Contractor shall conduct vulnerability assessments and penetration tests to assist in strengthening the security posture of the State of Tennessee. Vulnerability assessment services shall be used in identifying configuration and/or technical flaws within a given system or network (i.e. firewalls, routers, servers, operating systems, applications, databases, load-balancers, etc.). Penetration testing services shall be used in validating configuration and/or technical flaws, including attempted exploitation, within a given system or network (i.e. firewalls, routers, servers, operating systems, applications, databases, load-balancers, etc.).

A.9.b. Objective 1 Deliverables:

1. An Assessment Report outlining:

- i. Details of the methodology used to conduct the security vulnerability assessments and penetration tests;
- ii. The results including, but not limited to, the full details of the actions taken, and;
- iii. The detailed documentation of security flaws and remediation recommendations of those flaws found.

2. Any additional deliverables as defined in the SOW.

A.9.c. Objective 2: Provide Code Review Services

The Contractor shall conduct code review services to assist the ISAS User in strengthening the security posture of the State of Tennessee. The Contractor shall evaluate source code for programming errors that may lead to security issues (i.e. format string mistakes, buffer overflows, memory leaks, input validation/sanitization mistakes, etc.).

Source code reviews will be conducted for applications that the State owns and/or has access to the source code. This includes source code developed in-house by State personnel and source code developed by Contractors for the State.

A.9.d. Objective 2 Deliverables:

1. A Code Review Report outlining:

- i. Details of the methodology used to conduct code reviews;
- ii. The results including, but not limited to, the full details of the actions taken; and
- iii. The detailed documentation of security flaws and remediation recommendations of those flaws found.

2. Any additional deliverables as defined in the SOW.

A.9.e. Contractor must provide all software tools required to perform the tasks and deliverables as defined in the State's SOW. All costs associated with software tools must be included in the

Consulting Services Hourly Rates listed in Section C.3. The State will not pay separate costs for software tools.

A.9.f. The State shall provide written approval upon its acceptance of deliverables. Acceptance shall be based on the information provided in the SOW.

A.10. Procedures/Stipulations for Providing Consultants.

A.10.a. Statement of Work.

The State will provide the Contractor with an SOW describing the requested services, including as follows.

- i. Project number, which will be used to track the services through completion;
- ii. Description and scope of the requested services including the specific information security and other state standard technologies involved and any special data handling due to issues such as confidentiality;
- iii. Requested project timeframe and any non-standard work schedule tasks;
- iv. Deliverable(s);
- v. Work location;
- vi. State Project Coordinator; and
- vii. Deadline for the Contractor to respond to the State's request (i.e., response period), which will be no more than five (5) business days measured from the date the SOW was distributed.

A.10.b. Submission of Project Proposal.

The Contractor may seek written or verbal clarifications regarding the SOW during the response period. If deemed necessary by the State, the SOW may be modified to clarify its intent and to adjust the response period accordingly.

Within the requested response period, the Contractor will respond to the SOW with a Project Proposal that includes the following:

- i. Project number from the SOW;
- ii. Contractor understanding of the work to be performed;
- iii. Workplan, including a project timeframe, tasks, and resource loading;
- iv. Staffing plan, specifying the Consultant Classifications from Contract Section C.3 needed for the project and the hours required for each Consultant Classification;
- v. Maximum project consultant cost, which the Contractor shall calculate by using the payment rates per hour set forth in Section C.3.b. for each Consultant Classification needed for the project. If the project timeframe spans more than one year of the Contract term, the Contractor must calculate the maximum project consultant cost using the payment rates for every effective year. In other words, if the project begin and end dates lie completely within year one of the Contract term, the Contractor would calculate maximum project consultant cost using the payment rates for that Contract year. On the other hand, if the dates begin in Contract year one and extend into any portion of Contract year two, the Contractor must calculate the maximum project consultant cost using the payment rates for both years based on the dates in the Workplan. The same rule would apply for all contract years; the maximum project consultant cost must be calculated using the payment rates for the effective years. This maximum project consultant cost shall be a "not to exceed" total cost; the State shall pay no more than this cost for the consultant cost for the project, unless amended in the resulting MOU as described in Contract Section A.10.f.; and
- vi. Any Contractor assumptions on which the Project Proposal are based. These assumptions cannot conflict with the terms and provisions of the Contract. In the event of a conflict, the Contract will prevail.

A.10.c. The State has the sole discretion to accept the Contractor's Project Proposal, request modifications to the Contractor's Project Proposal, or to reject the Contractor's Project Proposal in its entirety.

A.10.d. Project Team.

The Contractor shall build the project team for each SOW. The State reserves the right to question the composition of, and request changes to, the proposed project team.

A.10.e. Memorandum of Understanding.

After the State has approved the Project Proposal, it will develop a Memorandum of Understanding (MOU) binding the Contractor to its Project Proposal for the associated SOW. (See Contract Attachment B for a draft of the MOU document.)

The State will provide a copy of the fully executed MOU, containing signatures from the Office for Information Resources and the Contractor, to the Contractor. Receipt of a fully executed MOU authorizes the Contractor to provide the requested services and the Contractor consultants to begin work. The State will not be liable to pay the Contractor for any work performed prior to the Contractor's receipt of a fully executed MOU.

A.10.f. Memorandum of Understanding **Maximum Compensation** Tracking and Amendment.

The MOU will fix the maximum amount of money to be paid in compensation on a particular SOW. This amount cannot be exceeded without an MOU **Amendment**. Such an amendment, if deemed necessary by the State, would increase the maximum potential compensation due the Contractor for the requested services. The Amendment will require the same signatures as the original MOU.

For each MOU, the Contractor will track the expenditures against the MOU Maximum Compensation, and will inform the State when expenditures are nearing either cap. If insufficient funds are remaining in the amount to complete the project, the Contractor will provide the State with a revised Project Proposal for completion of the project. The revised Project Proposal will include the same information requested in the original Project Proposal (see Contract Section A.10.b.), updated as needed to complete the project. It must also detail the reason(s) additional funds are required. The State, at its sole option, will either amend the MOU Maximum Compensation to accommodate completion of the project, in part or in whole, or direct the Contractor to cease work on the project.

A.10.g. **Statement of Work Changes After Memorandum of Understanding Signed.**

If the State deems changes are required in an SOW after the associated MOU has been signed, the State, at its sole discretion, will either 1) issue an updated SOW or 2) issue a new SOW, depending on the magnitude of the changes.

If an updated SOW is issued, the Contractor will provide the State with a revised Project Proposal for completion of the project. The revised Project Proposal will include the same information requested in the original Project Proposal (see Contract Section A.10.b.), updated as needed to reflect the changes in the SOW. An MOU Amendment will be signed for the updated SOW.

If a new SOW is issued, the current SOW may continue as originally scoped or be canceled. For work completed prior to the cancellation of the SOW, the Contractor will be compensated upon the State's written approval of the completed work.

A.11. Contractor Consultant Performance and Replacement.

- A.11.a. The State shall be the sole judge of the quality of services provided and the project progress achieved by the Contractor's consultants. The Contractor agrees to remove and replace at the Contractor's expense, consultants whom the State judges to be incompetent, careless, unsuitable or otherwise objectionable, or whose continued use is deemed contrary to the best interests of the State or deemed not to make substantial contributions to the project. The Contractor agrees not to charge the State for services performed which the State designates as being unacceptable.

This provision will not be deemed to give the State the right to require the Contractor to terminate any Contractor employee's employment. Rather, this provision is intended to give the State only the right to require that the Contractor discontinue using an employee in the performance of services for the State.

A.11.b. At the State's request, the Contractor will replace an individual that has voluntarily withdrawn or that the Contractor has voluntarily removed from State assignment. Any requirement for such replacement will be at the State's sole discretion; the State is not obligated to accept replacement of removed or withdrawn consultants. The State will compensate the Contractor for acceptable services completed by the consultant prior to voluntary withdrawal or removal.

A.11.c. If the State requests a replacement as described in Contract Sections A.11.a. and A.11.b., the Contractor will replace the consultant with a consultant of equal or greater years experience as the consultant proposed in the associated Project Proposal for the MOU. The Contractor will be compensated for the replacement consultant at the rate established for the original consultant.

A.11.d. The termination of an individual consultant's assignment will not necessarily result in the termination of the MOU related to that consultant.

A.12. Miscellaneous Policies and Procedures.

A.12.a. The State will not provide parking for Contractor consultants.

A.12.b. Contractor consultants do not have access to the State clinic.

A.13. Information Security Compliance.

Contractor warrants to the State that it will cooperate with the State in the course of performance of the Contract so that both parties will be in compliance with State of Tennessee's Enterprise Security Policies requirements and any other state and federal computer security regulations including cooperation and coordination with the State's Office for Information Resources Security Management Team and other compliance officers required by its regulations. The Enterprise Security Policies can be found on the State's public website at:

<http://www.state.tn.us/finance/oir/security/secpolicy.html>

A.13.a. The State acknowledges that penetration testing and ethical hacking exercises within the scope of this Contract are not violations of the Enterprise Security Policy. Contractor agrees to notify the State of any of its activities which may disrupt or threaten network operations prior to conducting such activities. This provision is not a limitation of liability for any negligence or malfeasance in the conduct of such exercises and tests.

A.14. State's Technical Architecture.

Contractor consultants shall provide all services requested through this Contract within the context of the technical environment described by the Tennessee Information Resources Architecture.

A.15. Periodic Meetings.

The State reserves the right, at the State's option, to request periodic meetings with Contractor management staff to discuss topics including, but not limited to, the following: general project direction, management, and coordination; State technical infrastructure and standards; SOW Clarifications; and time keeping and other project progress records. At the State's sole discretion, these meetings shall occur at a State location or via conference call and shall be at no additional cost to the State.

A.16. Provision of Managed Security Services Disallowed.

The Contractor shall not have active **Managed Security Service Provider** contract(s) with, or otherwise provide managed security services to, any other State of Tennessee agency during the term of this Contract.

A Managed Security Service Provider (MSSP) is a company contracted by an organization to provide various network security management services including, but not limited to, intrusion detection, firewall management, virtual private network (VPN) management, and anti-spam/virus e-mail filtering.

B. CONTRACT TERM:

This Contract shall be effective for the period commencing on July 2, 2008 and ending on July 1, 2011. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed **WRITTEN DOLLAR AMOUNT (\$NUMBER)**. The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

- C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Consulting Services Hourly Rates			
Consultant Classifications	Year 07/02/08- 07/01/09	Year 07/02/09- 07/01/10	Year 07/02/10- 07/01/11

Consultant With Greater Than 15 Years Information Security-Related Experience	\$(HOURLY RATE)	\$(HOURLY RATE)	\$(HOURLY RATE)
Consultant With 10 Years To 15 Years Information Security -Related Experience	\$(HOURLY RATE)	\$(HOURLY RATE)	\$(HOURLY RATE)
Consultant With 5 Years To Less Than 10 Years Information Security-Related Experience	\$(HOURLY RATE)	\$(HOURLY RATE)	\$(HOURLY RATE)
Consultant With Less Than 5 Years Information Security -Related Experience	\$(HOURLY RATE)	\$(HOURLY RATE)	\$(HOURLY RATE)

- c. The Contractor shall not be compensated for travel time to the primary location of service provision.
 - d. The Contractor hourly payment rates shall be fully loaded to include all administrative, software tool, and travel costs. The State will not pay any costs for projects apart from hourly payment rates.
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in Section C.3, above, and as required below prior to any payment.
- a. The Contractor shall submit invoices no more often than monthly, with all necessary supporting documentation, to:

Jason Gunnoe, Chief Information Security Officer
 Department of Finance and Administration, Office of Information Resources
 16th Floor, William Snodgrass Tennessee Tower
 312 Eighth Avenue North
 Nashville, TN 37243
 (Phone) 615-253-5028
 (Fax) 615-532-0471
 - b. The Contractor agrees that each invoice submitted shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.
 - (1) Invoice/Reference Number (assigned by the Contractor);
 - (2) Invoice Date;
 - (3) Invoice Period (period to which all invoiced charges are applicable);
 - (4) Contract Number (assigned by the State to this Contract);
 - (5) Account Name: Department of Finance and Administration, Division of Security Policy & Audit;
 - (6) Account/Customer Number (uniquely assigned by the Contractor to the above-referenced Account Name);
 - (7) Contractor Name;
 - (8) Contractor Federal Employer Identification Number or Social Security Number (as referenced in this Contract);

- (9) Contractor Contact (name, phone, and/or fax for the individual to contact with billing questions);
- (10) Contractor Remittance Address;
- (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description including name /title and MOU Project Number of each service invoiced;
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced;
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced;
 - iv. Amount Due by Service; and
 - v. Total Amount Due for the invoice period.

- c. The Contractor understands and agrees that an invoice to the State under this Contract shall:
 - (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
 - (2) not include any future work but will only be submitted for completed service; and
 - (3) not include sales tax or shipping charges.
- d. The Contractor agrees that timeframe for payment (and any discounts) begins when the State is in receipt of each invoice meeting the minimum requirements above.
- e. The Contractor shall complete and sign a "Substitute W-9 Form" provided to the Contractor by the State. The taxpayer identification number contained in the Substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor. The Contractor shall not invoice the State for services until the State has received this completed form.

- C.6. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any Contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other Contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment A, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.

- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, natural disasters, riots, wars, epidemics or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Jason Gunnoe, Chief Information Security Officer
 Department of Finance and Administration
 16th Floor, William Snodgrass Tennessee Tower
 312 Eighth Avenue North
 Nashville, TN 37243

Jason.Gunnoe@state.tn.us
 Telephone # 615-253-5028
 FAX # 615-532-0471

The Contractor:

NAME & TITLE OF CONTRACTOR CONTACT PERSON
 CONTRACTOR NAME
 ADDRESS
 EMAIL ADDRESS
 Telephone # NUMBER
 FAX # NUMBER

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.5. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:
- a. The Contract document and its attachments
 - b. The Memoranda of Understanding (MOU) and their associated addenda: Statements of Work (SOWs) and Project Proposals
 - c. All Clarifications and addenda made to the Contractor's Proposal
 - d. The Request for Proposal and its associated amendments
 - e. Technical Specifications provided to the Contractor
 - f. The Contractor's Proposal
- In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.
- E.6. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's proposal

responding to RFP-317.03-181-08 (Attachment 6.3, Section B, Item B.13.) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and persons with a disability. Such reports shall be provided to the state of Tennessee Governor's Office of Business Diversity Enterprise in form and substance as required by said office.

- E.7. State Ownership of Work Products.** The State shall have ownership, right, title, and interest, including ownership of copyright, in deliverables, including work products, computer source code, created, designed, developed, derived, documented, installed, or delivered under this Contract (collectively "Work Product") subject to the next subsection and full and final payment for each Work Product. The State shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Product.
- a. To the extent that the Contractor uses any of its pre-existing, proprietary or independently developed tools, materials or information ("Contractor Materials") in the development of the Work Product, the Contractor shall retain all right, title and interest in and to such Contractor Materials, and the State shall acquire no right, title or interest in or to such Contractor Materials EXCEPT the Contractor grants to the State unlimited, non-transferable, royalty-free rights to use, copy and distribute internally the Contractor Materials, solely for the State's unrestricted use of the Work Product.
 - b. The Contractor shall furnish such information and data, including but not limited to computer code, that is reasonably required to effectuate the State's use of the Work Product and rights in Contractor Materials, in accordance with this Contract and applicable state law.
 - c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.
 - d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.
- E.8. State Furnished Property.** The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.
- E.9. Prohibited Advertising.** The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.
- E.10. Debarment and Suspension.** The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

- E.11. Limitation of Liability. The parties agree that the total liability of the Contractor for breach of this Contract shall not exceed two (2) times the value of this Contract. The value shall be established by the Contract Maximum Liability in Section C.1 and increased by subsequent amendments if any. The foregoing provision shall not limit the Contractor's liability for intentional torts, criminal acts or fraudulent conduct.
- E.13. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
 - a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements see Contract Attachment C, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.
- E.14. Confidentiality of Records. All information relating to State information technology systems is confidential information and shall not be disclosed without written consent of the Chief Information Officer, Department of Finance and Administration. This confidentiality obligation applies to all forms of communication including written reports, notes, and verbal communications, and applies regardless of whether the same or similar information has been divulged by the State or other persons.

Contractor shall restrict access to confidential information to those individuals within the Contractor's organization who need such access in order to provide the information security

assessment services to the State. Prior to such access, Contractor shall advise each such individual of the confidential nature of the records and information and each such individual shall agree to be bound by the terms hereof.

Any disclosure or loss of State confidential information shall immediately be reported to the Chief Information Officer. Contractor will fully cooperate with the State and its authorized agents in any investigation of the disclosure or loss of State confidential information.

The Contractor will indemnify the State and hold it harmless for any claims, fines, litigation, and any other expenses caused by the contractor's disclosure or loss of State confidential information. No limitation of the contractor's liability will apply to this obligation, regardless of any other provisions of this contract limiting the liability of the contractor for damages.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.15. Partial Takeover. The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in Breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.16. Unencumbered Personnel. All persons assigned by the Contractor to perform services for the State under this Contract, whether they are employees, agents, subcontractors, or principals of the Contractor, shall not be subject to any employment contract or restrictive covenant provisions which would preclude those persons for performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State. If the Contractor provides the State with the services of any person subject to a restrictive covenant or contractual provision in violation of this provision, any such restrictive covenant or contractual provision will be void and unenforceable, and the Contractor will pay the State and any person involved all of its expenses, including attorneys fees, caused by attempts to enforce such provisions.
- E.17. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.
- a. The Contractor shall maintain, at minimum, the following insurance coverage:
 - (1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater.
 - (2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.

- b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

IN WITNESS WHEREOF:

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. GOETZ, COMMISSIONER

DATE

APPROVED:

**M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION**

DATE

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY

DATE

ATTACHMENT A**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

Contract Attachment B
MEMORANDUM OF UNDERSTANDING
BETWEEN THE
STATE OF TENNESSEE
Department of Finance and Administration
and
CONTRACTOR LEGAL ENTITY NAME
for
Project #####

This agreement, by and between the State of Tennessee, Department of **Finance & Administration, Office for Information Resources**, hereinafter referred to as the "State" and **CONTRACTOR LEGAL ENTITY NAME**, hereinafter referred to as the "Contractor" is as follows:

The Contractor understands and agrees that this Memorandum of Understanding (MOU) is governed by the provisions of Department of Finance and Administration Contract Number **FA-##-####-##**, hereinafter referred to as the "Master Contract". In the provision of services pursuant to this MOU, the Contractor will conform to these provisions in their entirety.

The Contractor will provide the services as described in this MOU and its Addenda, Statement of Work and Project Proposal, which are attached hereto. In the event of a conflict between the MOU (and its Addenda), and the Master Contract, the documents shall govern in the order of preference given in the Master Contract.

This MOU shall be effective for the period commencing on **DATE** and ending on **DATE**, unless amended.

In no event shall the maximum liability of the State under this MOU exceed **\$AMOUNT**, unless amended. For the services provided pursuant to this MOU, the maximum liability amount shall constitute the entire potential compensation due the Contractor for the services and all of the Contractor's obligations hereunder regardless of the difficulty, or materials or equipment required.

The Contractor shall be compensated and invoices submitted in accordance with the provisions of the Master Contract.

The State may, at any time and for any reason, terminate this MOU in accordance with the provisions of the Master Contract.

This agreement may be modified only by a written amendment which has been executed and approved by the appropriate State officials as indicated below:

MOU Signatures:

CONTRACTOR LEGAL ENTITY NAME

NAME AND TITLE OF CONTRACTOR SIGNATORY

DATE

DEPARTMENT OF FINANCE AND ADMINISTRATION, OFFICE FOR INFORMATION RESOURCES

NAME AND TITLE OF STATE PROJECT COORDINATOR	DATE
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Jason Gunnoe, CISO	DATE
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Contract Attachment C

HIPAA BUSINESS ASSOCIATE AGREEMENT COMPLIANCE WITH PRIVACY AND SECURITY RULES

THIS BUSINESS ASSOCIATE AGREEMENT (hereinafter "Agreement") is between The State of Tennessee, Department of Finance and Administration (hereinafter "Covered Entity") and _____ (hereinafter "Business Associate"). Covered Entity and Business Associate may be referred to herein individually as "Party" or collectively as "Parties."

BACKGROUND

Covered Entity acknowledges that it is subject to the Privacy and Security Rules (45 CFR Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191 in certain aspects of its operations.

Business Associate provides services to Covered Entity pursuant to one or more contractual relationships detailed below and hereinafter referred to as "Service Contracts"

Contract Awarded Pursuant to RFP # 317.03-181-08

In the course of executing Service Contracts, Business Associate may come into contact with, use, or disclose Protected Health Information (defined in Section 1.8 below). Said Service Contracts are hereby incorporated by reference and shall be taken and considered as a part of this document the same as if fully set out herein.

In accordance with the federal privacy and security regulations set forth at 45 C.F.R. Part 160 and Part 164, Subparts A, C, and E, which require Covered Entity to have a written memorandum with each of its internal Business Associates, the Parties wish to establish satisfactory assurances that Business Associate will appropriately safeguard "Protected Health Information" and, therefore, make this Agreement.

DEFINITIONS

- 1.1 Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR §§ 160.103, 164.103, 164.304, 164.501 and 164.504.
- 1.2 "Designated Record Set" shall have the meaning set out in its definition at 45 C.F.R. § 164.501.
- 1.3 "Electronic Protected Health Care Information" shall have the meaning set out in its definition at 45 C.F.R. § 160.103.
- 1.4 "Health Care Operations" shall have the meaning set out in its definition at 45 C.F.R. § 164.501.
- 1.5 "Individual" shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- 1.6 "Privacy Official" shall have the meaning as set out in its definition at 45 C.F.R. § 164.530(a)(1).
- 1.7 "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subparts A, and E.

- 1.8 "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- 1.9 "Required by Law" shall have the meaning set forth in 45 CFR § 164.512.
- 1.10 "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Parts 160 and 164, Subparts A and C.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE (Privacy Rule)

- 2.1 Business Associate agrees to fully comply with the requirements under the Privacy Rule applicable to "business associates," as that term is defined in the Privacy Rule and not use or further disclose Protected Health Information other than as permitted or required by this Agreement, the Service Contracts, or as Required By Law. In case of any conflict between this Agreement and the Service Contracts, this Agreement shall govern.
- 2.2 Business Associate agrees to use appropriate procedural, physical, and electronic safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this Agreement. Said safeguards shall include, but are not limited to, requiring employees to agree to use or disclose Protected Health Information only as permitted or required by this Agreement and taking related disciplinary actions for inappropriate use or disclosure as necessary.
- 2.3 Business Associate shall require any agent, including a subcontractor, to whom it provides Protected Health Information received from, created or received by, Business Associate on behalf of Covered Entity or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to Protected Health Information, to agree, by written contract with Business Associate, to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- 2.4 Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- 2.5 Business Associate agrees to require its employees, agents, and subcontractors to promptly report, to Business Associate, any use or disclosure of Protected Health Information in violation of this Agreement. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement
- 2.6 If Business Associate receives Protected Health Information from Covered Entity in a Designated Record Set, then Business Associate agrees to provide access, at the request of Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524, provided that Business Associate shall have at least twenty (20) business days from Covered Entity notice to provide access to, or deliver such information.
- 2.7 If Business Associate receives Protected Health Information from Covered Entity in a Designated Record Set, then Business Associate agrees to make any amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to the 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in the time and

manner designated by Covered Entity, provided that Business Associate shall have at least ten (10) days from Covered Entity notice to make an amendment.

- 2.8 Business Associate agrees to make its internal practices, books, and records including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, created by or received by Business Associate on behalf of, Covered Entity available to the Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the Secretary, for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule.
- 2.9 Business Associate agrees to document disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosure of Protected Health Information in accordance with 45 CFR § 164.528.
- 2.10 Business Associate agrees to provide Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with this Agreement, to permit Covered Entity to respond to a request by an Individual for and accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528, provided that Business Associate shall have at least twenty (20) days from Covered Entity notice to provide access to, or deliver such information which shall include, at minimum, (a) date of the disclosure; (b) name of the third party to whom the Protected Health Information was disclosed and, if known, the address of the third party; (c) brief description of the disclosed information; and (d) brief explanation of the purpose and basis for such disclosure.
- 2.11 Business Associate agrees it must limit any use, disclosure, or request for use or disclosure of Protected Health Information to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of the Privacy Rule.
 - 2.11.1 Business Associate represents to Covered Entity that all its uses and disclosures of, or requests for, Protected Health Information shall be the minimum necessary in accordance with the Privacy Rule requirements.
 - 2.11.2 Covered Entity may, pursuant to the Privacy Rule, reasonably rely on any requested disclosure as the minimum necessary for the stated purpose when the information is requested by Business Associate.
 - 2.11.3 Business Associate acknowledges that if Business Associate is also a covered entity, as defined by the Privacy Rule, Business Associate is required, independent of Business Associate's obligations under this Memorandum, to comply with the Privacy Rule's minimum necessary requirements when making any request for Protected Health Information from Covered Entity.
- 2.12 Business Associate agrees to adequately and properly maintain all Protected Health Information received from, or created or received on behalf of, Covered Entity
- 2.13 If Business Associate receives a request from an Individual for a copy of the individual's Protected Health Information, and the Protected Health Information is in the sole possession of the Business Associate, Business Associate will provide the requested copies to the individual and notify the Covered Entity of such action. If Business Associate receives a request for Protected Health Information in the possession of the Covered Entity, or receives a request to exercise other individual rights as set forth in the Privacy Rule, Business Associate shall notify Covered Entity of such request and forward the request to Covered Entity. Business Associate shall then assist Covered Entity in responding to the request.

- 2.14 Business Associate agrees to fully cooperate in good faith with and to assist Covered Entity in complying with the requirements of the Privacy Rule.

3 OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE (Security Rule)

- 3.1 Business Associate agrees to fully comply with the requirements under the Security Rule applicable to "business associates," as that term is defined in the Security Rule. In case of any conflict between this Agreement and Service Agreements, this Agreement shall govern.
- 3.2 Business Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the covered entity as required by the Security Rule.
- 3.3 Business Associate shall ensure that any agent, including a subcontractor, to whom it provides electronic protected health information received from or created for Covered Entity or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to Protected Health Information supplied by Covered Entity, to agree, by written contract (or the appropriate equivalent if the agent is a government entity) with Business Associate, to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- 3.4 Business Associate agrees to require its employees, agents, and subcontractors to report to Business Associate within five (5) business days, any Security Incident (as that term is defined in 45 CFR Section 164.304) of which it becomes aware. Business Associate agrees to promptly report any Security Incident of which it becomes aware to Covered Entity.
- 3.5 Business Associate agrees to make its internal practices, books, and records including policies and procedures relating to the security of electronic protected health information received from, created by or received by Business Associate on behalf of, Covered Entity available to the Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the Secretary, for purposes of determining Covered Entity's or Business Associate's compliance with the Security Rule.
- 3.6 Business Associate agrees to fully cooperate in good faith with and to assist Covered Entity in complying with the requirements of the Security Rule.

4. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

- 4.1 Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in Service Contracts, provided that such use or disclosure would not violate the Privacy and Security Rule, if done by Covered Entity.
- 4.2 Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information as required for Business Associate's proper management and administration or to carry out the legal responsibilities of the Business Associate.
- 4.3 Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate,

provided that disclosures are Required By Law, or provided that, if Business Associate discloses any Protected Health Information to a third party for such a purpose, Business Associate shall enter into a written agreement with such third party requiring the third party to: (a) maintain the confidentiality, integrity, and availability of Protected Health Information and not to use or further disclose such information except as Required By Law or for the purpose for which it was disclosed, and (b) notify Business Associate of any instances in which it becomes aware in which the confidentiality, integrity, and/or availability of the Protected Health Information is breached.

4.4 Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR § 164.504(e)(2)(l)(B).

4.5 Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State Authorities consistent with 45 CFR 164.502(j)(1)

5. OBLIGATIONS OF COVERED ENTITY

5.1 Covered Entity shall provide Business Associate with the notice of Privacy Practices that Covered Entity produces in accordance with 45 CFR § 164.520, as well as any changes to such notice. Covered Entity shall notify Business Associate of any limitations in its notice that affect Business Associate's use or disclosure of Protected Health Information.

5.2 Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses.

5.3 Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use of Protected Health Information.

6. PERMISSIBLE REQUESTS BY COVERED ENTITY

6.1 Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy or Security Rule, if done by Covered Entity.

7. TERM AND TERMINATION

7.1 Term. This Agreement shall be effective as of the date on which it is signed by both parties and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, Section 7.3. below shall apply.

7.2 Termination for Cause.

- 7.2.1. This Agreement authorizes and Business Associate acknowledges and agrees Covered Entity shall have the right to immediately terminate this Agreement and Service Contracts in the event Business Associate fails to comply with, or violates a material provision of, requirements of the Privacy and/or Security Rule or this Memorandum.
- 7.2.2. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - 7.2.2.1. provide a reasonable opportunity for Business Associate to cure the breach or end the violation, or
 - 7.2.2.2. if Business Associate has breached a material term of this Agreement and cure is not possible or if Business Associate does not cure a curable breach or end the violation within a reasonable time as specified by, and at the sole discretion of, Covered Entity, Covered Entity may immediately terminate this Agreement and the Service Agreement.
 - 7.2.2.3. If neither cure nor termination is feasible, Covered Entity shall report the violation to the Secretary of the United States Department of Health in Human Services or the Secretary's designee.
- 7.3. Effect of Termination.
 - 7.3.1. Except as provided in Section 7.3.2. below, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of, Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - 7.3.2. In the event that Business Associate determines that returning or destroying the Protected Health Information is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction unfeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is unfeasible, Business Associate shall extend the protections of this Memorandum to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction unfeasible, for so long as Business Associate maintains such Protected Health Information.

8. MISCELLANEOUS

- 8.1 Regulatory Reference. A reference in this Agreement to a section in the Privacy and /or Security Rule means the section as in effect or as amended.
- 8.2 Amendment. The Parties agree to take such action as is necessary to amend this Memorandum from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act, Public Law 104-191. Business Associate and Covered Entity shall comply with any amendment to the Privacy and Security Rules, the Health Insurance Portability and Accountability Act, Public Law 104-191, and related regulations upon the effective date of such amendment, regardless of whether this Agreement has been formally amended.
- 8.3 Survival. The respective rights and obligations of Business Associate under Section 7.3. of this Memorandum shall survive the termination of this Agreement.
- 8.4 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and the Business Associate to comply with the Privacy and Security Rules.

- 8.5 Notices and Communications. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered by hand, by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below, or to such other party, facsimile number, or address as may be hereafter specified by written notice.

COVERED ENTITY:

State Name
 Project Director
 Department of Finance and
 Administration
 ADDRESS
 Nashville, TN 37243
 Phone:
 Fax:

BUSINESS ASSOCIATE:

BUSINESS ASSOCIATE NAME
NAME AND TITLE
ADDRESS
 Telephone: **NUMBER**
 Fax: **NUMBER**

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the date of hand delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the facsimile machine at the receiving location and receipt is verbally confirmed by the sender.

- 8.6 Strict Compliance. No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect, or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement
- 8.7 Severability. With respect to any provision of this Agreement finally determined by a court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent permitted by applicable law, and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.
- 8.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee except to the extent that Tennessee law has been pre-empted by HIPAA.
- 8.9 Compensation. There shall be **no** remuneration for performance under this Agreement except as specifically provided by, in, and through, existing administrative requirements of Tennessee State government and services contracts referenced herein.

IN WITNESS WHEREOF,

Date:

Date:

ATTACHMENT 6.2**PROPOSAL TRANSMITTAL AND STATEMENT OF CERTIFICATIONS AND ASSURANCES**

The Proposer must complete and sign this *Proposal Transmittal and Statement of Certifications and Assurances*. It must be signed, in the space below, by an individual empowered to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the Proposer's chief executive or president, this document shall attach evidence showing the individual's authority to bind the proposing entity.

Any contract resulting from this RFP process shall incorporate this *Proposal Transmittal and Statement of Certifications and Assurances* by reference as a part of said contract (refer to *pro forma* contract "Special Terms and Conditions").

PROPOSER LEGAL ENTITY NAME:

PROPOSER FEDERAL EMPLOYER IDENTIFICATION NUMBER:
(or Social Security Number)

The Proposer does hereby affirm and expressly declare confirmation, certification, and assurance of the following:

- 1) This proposal constitutes a commitment to provide all services as defined in the RFP Attachment 6.1, *Pro Forma* Contract Scope of Services for the total contract period and confirmation that the Proposer shall comply with all of the provisions in this RFP and shall accept all terms and conditions set out in the RFP Attachment 6.1, *Pro Forma* Contract.
- 2) The information detailed in the proposal submitted herewith in response to the subject RFP is accurate.
- 3) The proposal submitted herewith in response to the subject RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.
- 4) The Proposers shall comply with:
 - a) the laws of the State of Tennessee;
 - b) Title VI of the federal Civil Rights Act of 1964;
 - c) Title IX of the federal Education Amendments Act of 1972;
 - d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
 - e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government;
 - f) the condition that the submitted proposal was independently arrived at, without collusion, under penalty of perjury; and,
 - g) the condition that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the Procurement under this RFP.

SIGNATURE & DATE:

ATTACHMENT 6.3

TECHNICAL PROPOSAL & EVALUATION GUIDE — SECTION A		
PROPOSER NAME:		
SECTION A — MANDATORY REQUIREMENTS		
<p>The Proposer must address ALL Mandatory Requirements section items and provide, in sequence, the information and documentation as required (referenced with the associated item references). The RFP Coordinator will review all general mandatory requirements, including but not limited to the following:</p> <ul style="list-style-type: none"> ▪ Proposal received on or before the Proposal Deadline. ▪ Technical Proposal copies and Cost Proposal packaged separately. ▪ Technical Proposal contains NO cost data. ▪ Proposer did NOT submit alternate proposals. ▪ Proposer did NOT submit multiple proposals in a different form. ▪ Technical Proposal does NOT contain any restrictions of the rights of the State or other qualification of the proposal. <p>The RFP Coordinator will also review the proposal to determine if the Mandatory Requirement Items (below) are met and mark each with pass or fail. For each requirement that is not met, the Proposal Evaluation Team must review the proposal and attach a written determination.</p> <p>Any contract resulting from this RFP process shall incorporate by reference the respective proposal responses to all items below as a part of said contract (refer to <i>pro forma</i> contract “Special Terms and Conditions”).</p> <p>NOTICE: In addition to these requirements, the State will also evaluate compliance with ALL RFP requirements.</p>		
Proposal Page # (to be completed by Proposer)	Mandatory Requirement Items	State Use ONLY
		Pass/Fail
	<p>A.1 Provide the Proposal Transmittal and Statement of Certifications and Assurances (detailed in RFP Attachment 6.2) completed and signed, in the space provided, by an individual empowered to bind the Proposer to the provisions of this RFP and any resulting contract.</p> <p><i>Each Proposer <u>must</u> sign the Proposal Transmittal and Statement of Certifications and Assurances without exception or qualification.</i></p>	

	<p>A.2 Provide the following as documentation of financial responsibility and stability.</p> <ul style="list-style-type: none"> ▪ a current written bank reference, in the form of a standard business letter, indicating that the proposer's business relationship with the financial institution is in positive standing ▪ two current written, positive credit references, in the form of standard business letters, from vendors with which the proposer has done business or, a positive credit rating determined by a accredited credit bureau within the last 6 months and the associated credit report number; inclusion of the credit report number without the actual credit rating is insufficient. ▪ a copy of a valid certificate of insurance indicating liability insurance in the amount of at least One Million Dollars (\$1,000,000) 	
	<p>A.3 Provide a statement of whether the Proposer or any individual who shall perform work under the contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict.</p> <p><i>Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.</i></p>	
	<p>A.4 Provide a statement confirming that the Proposer does <u>not</u> have active managed security service provider contract(s) with any State of Tennessee agency.</p>	
	<p>A.5 The Proposer must have performed a vulnerability assessment and/or penetration test on a government entity or corporation that has the minimum of 5,000 employees. <u>Evidence of this should be in the form of a list of the Proposer's clients meeting this requirement with the total number of employees for each client identified with the client name.</u> The employee count should be the total number of employees in the entire organization (federal agency, state government, county government, corporation, etc.), including all divisions, agencies, sections, etc. and may be rounded to the nearest hundred. (For example, the State of Tennessee has approximately 40,000 employees.)</p>	

TECHNICAL PROPOSAL & EVALUATION GUIDE — SECTION B

PROPOSER NAME:	
SECTION B — QUALIFICATIONS & EXPERIENCE	
<p>The Proposer must address ALL Qualifications and Experience section items and provide, in sequence, the information and documentation as required (referenced with the associated item references).</p> <p>A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the proposal's "qualifications and experience" responses.</p> <p>Any contract resulting from this RFP process shall incorporate by reference the respective proposal responses to all items below as a part of said contract (refer to <i>pro forma</i> contract "Special Terms and Conditions").</p>	
Proposal Page # (to be completed by Proposer)	Qualifications & Experience Items
	B.1 Describe the Proposer's form of business (<i>i.e.</i> , individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and detail the name, mailing address, and telephone number of the person the State should contact regarding the proposal.
	B.2 Provide a statement of whether there have been any mergers, acquisitions, or sales of the Proposer company within the last ten years, and if so, an explanation providing relevant details.
	B.3 Provide a statement of whether the Proposer or any of the Proposer's employees, agents, independent contractors, or subcontractors have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony, and if so, an explanation providing relevant details.
	B.4 Provide a statement of whether there is any pending litigation against the Proposer; and if such litigation exists, an attached opinion of counsel as to whether the pending litigation will impair the Proposer's performance in a contract under this RFP.
	B.5 Provide a statement of whether, in the last ten years, the Proposer has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors, and if so, an explanation providing relevant details.
	B.6 Provide a statement of whether there are any pending Securities Exchange Commission investigations involving the Proposer, and if such are pending or in progress, an explanation providing relevant details and an attached opinion of counsel as to whether the pending investigation(s) will impair the Proposer's performance in a contract under this RFP.
	B.7 Provide a brief, descriptive statement indicating the Proposer's credentials to deliver the services sought under this RFP.
	B.8 Briefly describe how long the Proposer has been performing the services required by this RFP and include the number of years in business.
	B.9 Describe the Proposer organization's number of employees, client base, and location of offices.

	<p>B.10 Provide a narrative description of the proposed project team, its members, and organizational structure.</p>
	<p>B.11 Provide a personnel roster and resumes of key people who shall be assigned by the Proposer to perform duties or services under the contract (include estimated number of hours to be worked on the contract for each person, and the resumes shall detail each individual's title, education, current position with the Proposer, and employment history) as well as an organizational chart highlighting the key people who shall be assigned to accomplish the work required by this RFP and illustrating the lines of authority and designate the individual responsible for the completion of each service component and deliverable of the RFP.</p>
	<p>B.12 Provide a statement of whether the Proposer intends to use subcontractors, and if so, the names and mailing addresses of the committed subcontractors and a description of the scope and portions of the work the subcontractors will perform.</p>
	<p>B.13 Provide documentation of Proposer commitment to diversity as represented by its business strategy, business relationships, and workforce — this documentation should detail:</p> <ul style="list-style-type: none"> ▪ a description of the Proposer's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, persons with a disability and small business enterprises ▪ a listing of the Proposer's current contracts with business enterprises owned by minorities, women, persons with a disability and small business enterprises, including the following information <ul style="list-style-type: none"> ○ contract description and total value ○ contractor name and ownership characteristics (<i>i.e.</i>, ethnicity, sex, disability) ○ contractor contact and telephone number ▪ an estimate of the level of participation by business enterprises owned by minorities, women, persons with a disability and small business enterprises in a contract awarded to the Proposer pursuant to this RFP, including the following information: <ul style="list-style-type: none"> ○ participation estimate (expressed as a percent of the total contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics) ○ descriptions of anticipated contracts ○ names and ownership characteristics (<i>i.e.</i>, ethnicity, sex, disability) of anticipated subcontractors and supply contractors anticipated ▪ the percent of the Proposer's total current employees by ethnicity, sex, and disability <p><i>Proposers that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as contractors and sub-contractors. Proposal evaluations will recognize the positive qualifications and experience of a Proposer that does business with enterprises owned by minorities, women, persons with a disability and small business enterprises and that offers a diverse workforce to meet service needs.</i></p>
	<p>B.14 Provide six (6) customer references for similar projects representing three (3) of the larger accounts currently serviced by the Proposer and three completed projects. The Proposer may provide any six references that the Proposer believes best</p>

address the requirements stated above. However, the Proposer may **NOT** provide more than six references for the Proposer in its response. If the Proposer provides more than six Proposer references in response to this Section B.14, the State will **randomly** select six for evaluation purposes.

The Proposer should also include at least one reference for each of the Proposer's proposed subcontractors, if any. If the Proposer has any State of Tennessee references, the Proposer may submit these as well, using the same process described herein. Subcontractor and State of Tennessee references are not included in the six-reference limit described above; subcontractor and State of Tennessee references are in addition to the six reference limit described above.

All references shall be provided to the State in the form of questionnaires that have been fully completed by the individual providing the reference. The State has included the reference check questionnaire to be used, as RFP Attachment 6.6.

THE PROPOSER MUST USE THIS FORM, OR AN EXACT DUPLICATE THEREOF.

The Proposer will be solely responsible for obtaining the fully completed reference check questionnaires, and for including them within the Proposer's sealed Technical Proposal. In order to obtain and submit the completed reference check questionnaire, the Proposer shall follow the process detailed below exactly:

1. Proposer makes an exact duplicate of the State's form, as it appears in RFP Attachment 6.6.
2. Proposer sends the copy of the form to the reference it has chosen, along with a new, standard #10 envelope.
3. Proposer directs the person providing the reference check feedback to complete the form in its entirety, sign and date it, and seal it within the provided envelope. The person may prepare a manual document or complete the exact duplicate Word document and print the completed copy for submission. After sealing the envelope, the person providing the reference must sign his or her name in ink across the sealed portion of the envelope and return it directly to the Proposer. The Proposer will give the reference check provider a deadline, such that the Proposer will be able to collect all references in time to include them within its sealed Technical Proposal.
4. When the Proposer receives the sealed envelopes from the reference check providers, the Proposer **will not open** them. Instead, the Proposer will enclose all of the unopened reference check envelopes, in an easily identifiable larger envelope, and will include this envelope as a part of the written Technical Proposal. Therefore, when the State opens the Technical Proposal box, the State will find a clearly labeled envelope enclosed, which contains all of the sealed reference check envelopes.
5. The State will base its reference check evaluation on the contents of these envelopes. **THE STATE WILL NOT ACCEPT LATE REFERENCES OR REFERENCES SUBMITTED THROUGH ANY OTHER CHANNEL OF SUBMISSION OR MEDIUM, WHETHER WRITTEN, ELECTRONIC, VERBAL, OR OTHERWISE.**

Each reference must include:

- The Proposer's name
- The reference's organization name
- The name of the person responding
- The title of person responding
- The date the reference form was completed.

6. The State reserves the right to clarify information presented in the reference check questionnaires, and may consider clarification responses in the evaluation


	<p>of reference checks. However, the State is under no obligation to clarify any reference check information.</p> <p><i>Each evaluator will generally consider the references provided in accordance with the rules above. Current or prior contracts with the State are not a prerequisite and are not required for the maximum evaluation score possible, and the existence of such contracts with the State will not automatically result in the addition or deduction of evaluation points.</i></p>
	<p>B.15 Provide a list, if any, of all current contracts with the State of Tennessee and all those completed within the previous five-year period.</p> <p>This list must include:</p> <ul style="list-style-type: none"> • The procuring State agency • A brief description of the contract's scope of services • The contract number • The contract term <p><i>Current or prior contracts with the State are not a prerequisite and are not required for the maximum evaluation score possible, and the existence of such contracts with the State will not automatically result in the addition or deduction of evaluation points.</i></p>
(Maximum Section B Score =30)	
<p>SCORE (for <u>all</u> Section B items above, B.1 through B.15):</p>	

TECHNICAL PROPOSAL & EVALUATION GUIDE — SECTION C

PROPOSER NAME:				
SECTION C — TECHNICAL APPROACH				
<p>The Proposer must address ALL Technical Approach section items and provide, in sequence, the information and documentation as required (referenced with the associated item references). A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the proposal's response to each item. Each evaluator will use the following whole number, raw point scale for scoring each item:</p> <p style="text-align: center;"><i>0 = little value 1 = poor 2 = fair 3 = satisfactory 4 = good 5 = excellent</i></p> <p>The RFP Coordinator will multiply each item score by the assigned weight with the product being the item's raw weighted score for purposes of calculating the section score as detailed at the end of this table.</p> <p>Any contract resulting from this RFP process shall incorporate by reference the respective proposal responses to all items below as a part of said contract (refer to <i>pro forma</i> contract "Special Terms and Conditions").</p>				
Proposal Page # (to be completed by Proposer)	Technical Approach Items	State Use ONLY		
		Score	Item Weight	Raw Weighted Score
	C.1 Provide a narrative that illustrates the Proposer's understanding of the State's requirements.		3	
	C.2 Provide a narrative that illustrates how the Proposer will complete the scope of services and accomplish required objectives.		4	
	C.3 Provide a narrative that illustrates how the Proposer will manage the project and ensure completion of the scope of services.		4	
	C.4 Provide a narrative illustrating your methodology for conducting vulnerability assessments and penetration tests.		3	
	C.5 Provide a narrative describing how you apply your vulnerability assessment and penetration testing methodologies in performing the services for customers. Including project management; incident and emergency procedures; findings, vulnerabilities, and/or report delivery practices.		5	
	C.6 Provide a narrative detailing the systems that you are able to assess for vulnerabilities. Including but not limited to: operating systems, databases, applications, and infrastructure/networking.		3	
	C.7 Provide a narrative illustrating your methodology for reviewing code.		3	
	C.8 Provide a narrative describing how you apply your code review methodologies in performing the services for customers. Including project management; incident and emergency procedures; findings, vulnerabilities, and/or report		5	

	delivery practices.			
	C.9 Provide a list of the code languages you can review.		3	
	C.10 Provide an anonymous example of a report outlining the required deliverables as provided in the Scope of Services.		4	
	C.11 Please provide a narrative describing your process for conducting background checks on your employees.		3	
Total Raw Weighted Score: <i>(sum of Raw Weighted Scores above)</i>				
Total Raw Weighted Score maximum possible raw weighted score <i>(i.e., 5 x the sum of item weights above)</i>		X40 <i>(maximum section score)</i>		= SCORE:

ATTACHMENT 6.4

COST PROPOSAL & SCORING GUIDE						
NOTICE TO PROPOSER: This Cost Proposal MUST be completed EXACTLY as required.						
PROPOSER NAME:						
SIGNATURE & DATE:						
<p>NOTE: The signatory must be an individual or a company officer empowered to contractually bind the Proposer. If the Signatory is not the Proposer's chief executive or president, this Cost Proposal & Scoring Guide SHALL attach evidence showing the Signatory's authority to bind the Proposer.</p>						
<p align="center">COST PROPOSAL SCHEDULE</p> <p>The proposed cost, detailed below, shall indicate the proposed price for providing the entire scope of service including all services as defined in the RFP Attachment 6.1, <i>Pro Forma Contract Scope of Services</i> for the total contract period. The proposed cost and the submitted technical proposal associated with this cost shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any resulting contract between the Proposer and the State. All monetary amounts are United States currency.</p> <p>The proposed hourly rates must be fully loaded to include all administrative, software tool, and travel costs.</p> <p>The Proposer must enter only one rate per cost cell; the proposer must <u>NOT</u> enter more than one rate or a range of rates in a single cost cell. The Proposer must <u>NOT</u> add any other information to the Cost Proposal.</p> <p>The Proposer may enter zero (0) in a required proposed cost cell; however, the Proposer should not leave any proposed cost cell blank. For evaluation and contractual purposes, the State shall interpret a blank Proposed Cost cell as zero (0).</p>						
Cost Item Description	Proposed Hourly Rate			State Use ONLY		
	07/02/2008 - 07/01/2009	07/02/2009- 07/01/2010	07/02/2010- 07/01/2011	Sum	Weight	Weighted Cost
Consultant With Greater Than 15 Years Information Security -Related Experience	\$(HOURLY RATE)	\$(HOURLY RATE)	\$(HOURLY RATE)		625	
Consultant With 10 Years to 15 Years Information Security-Related Experience	\$(HOURLY RATE)	\$(HOURLY RATE)	\$(HOURLY RATE)		625	
Consultant With 5 Years to Less Than 10 Years Information Security -Related Experience	\$(HOURLY RATE)	\$(HOURLY RATE)	\$(HOURLY RATE)		625	
Consultant With Less Than 5 Years Information Security-Related Experience	\$(HOURLY RATE)	\$(HOURLY RATE)	\$(HOURLY RATE)		625	
<p>The RFP Coordinator shall use the evaluation cost amount derived from the proposed cost amounts above and the following formula to calculate the COST PROPOSAL SCORE. Calculations shall result in numbers rounded to two decimal places.</p>						

Evaluation Cost Amount: <i>(sum of all weighted cost amounts above)</i>			
lowest Evaluation Cost Amount from <u>all</u> Proposals <hr/> Evaluation Cost Amount being evaluated	X 30 <i>(maximum section score)</i>	= SCORE:	

ATTACHMENT 6.5**PROPOSAL SCORE SUMMARY MATRIX**

RFP Coordinator		Date				
QUALIFICATIONS & EXPERIENCE Maximum Points: 30	PROPOSER NAME		PROPOSER NAME		PROPOSER NAME	
EVALUATOR NAME						
EVALUATOR NAME						
EVALUATOR NAME						
EVALUATOR NAME						
REPEAT AS NECESSARY						
	AVERAGE SCORE:		AVERAGE SCORE:		AVERAGE SCORE:	
TECHNICAL APPROACH Maximum Points: 40						
EVALUATOR NAME						
EVALUATOR NAME						
EVALUATOR NAME						
EVALUATOR NAME						
REPEAT AS NECESSARY						
	AVERAGE SCORE:		AVERAGE SCORE:		AVERAGE SCORE:	
COST PROPOSAL Maximum Points: 30	SCORE:		SCORE:		SCORE:	
PROPOSAL SCORE Maximum Points: 100	TOTAL SCORE:		TOTAL SCORE:		TOTAL SCORE:	

ATTACHMENT 6.6

STATE OF TENNESSEE
Information Security Assessment Services RFP
RFP #317.03-181-08
REFERENCE INFORMATION QUESTIONNAIRE

Proposer's Name: _____

Reference (Client Organization) Name:

**Person Responding to this Request for
Reference Information:**

Printed Name

Signature **(MUST BE THE SAME AS THE SIGNATURE
ACROSS THE ENVELOPE SEAL)**

Person's Title: _____

Date Reference Form Was Completed: _____

NOTE: Reference should complete responses to the seven items that appear on the following pages. If completed using a Word document, use as much space as required. If completed manually, record response in space provided.

- 1. Describe the services provided by the vendor to your organization.**
- 2. Please rate your overall satisfaction with the vendor on a scale of 1 to 5, with 1 being “least satisfied” and 5 being “most satisfied.”**
- 3. If you answered 3 or less to the previous question, what could the vendor have done to improve their rating?**
- 4. Please indicate your level of satisfaction with the Proposer’s project management structures, processes, and personnel? Use a scale of 1 to 5; with 1 being “least satisfied,” and 5 being “most satisfied.”**
- 5. Rate your level of satisfaction with the vendor’s line-level staff (e.g., business and systems analysts). Use a scale of 1 to 5; with 1 being “least satisfied” and 5 being “most satisfied.”**

6. As far as you know, has the vendor remained (or did the vendor remain) in compliance with the contract throughout their provision of services to your organization? If not, please explain.
7. Would you use the services of the vendor again? Indicate on a scale of 1 to 5: with 1 being “absolutely not” and 5 being “absolutely yes.”